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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

BARBARA SILVA,

No. C-09-03649 JCS

Plaintiff,

v.

CITY OF SAN LEANDRO, ET AL.,

Defendants.

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**COURT'S PROPOSED JURY INSTRUCTIONS: PHASE TWO**

DATED: January 19, 2011

  
\_\_\_\_\_  
JOSEPH C. SPERO  
United States Magistrate Judge

**JURY INSTRUCTION NO. 1**

**DUTY OF JURY**

Members of the Jury: You have found that Defendant Officer Daniel Sellers violated Plaintiff's Fourth Amendment right to be free from unreasonable seizures by shooting her dog. It is now your duty to determine the amount of damages, if any, that should be awarded to Ms. Silva.

**JURY INSTRUCTION NO. 2**

**DAMAGES – PROOF**

The Plaintiff has the burden of proving damages by a preponderance of the evidence.

Damages means the amount of money that will reasonably and fairly compensate the Plaintiff for any injury you find was caused by the Defendant. In determining the measure of damages, you should consider the nature and extent of the injuries, including emotional distress, if any; and such sum as will reasonably compensate for any loss of use of any damaged property during the time reasonably required for its replacement. It is for you to determine what damages, if any, have been proved.

Your award must be based upon evidence and not upon speculation, guesswork or conjecture.

**JURY INSTRUCTION NO. 3**

**DAMAGES – NO PRESUMED DAMAGES**

You are not to award damages based on the abstract value of a constitutional right. In other words, you may award only those damages that you have determined by following the instructions I have just given you. You may not award any damages that are based on your subjective evaluation of the importance of particular constitutional values.